

FALL RIVER LAKE
KANSAS

SHORELINE MANAGEMENT PLAN
TO
DESIGN MEMORANDUM NO. 2B
MASTER PLAN

DEPARTMENT OF THE ARMY
TULSA DISTRICT CORPS OF ENGINEERS
OKLAHOMA
1996

FALL RIVER LAKE
KANSAS

SHORELINE MANAGEMENT PLAN
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**SHORELINE MANAGEMENT PLAN
FALL RIVER LAKE, KANSAS**

I - INTRODUCTION

1-01. Purpose. The purpose of this Appendix is to establish policy and guidance for the protection of desirable environmental characteristics of the lake and restoration of the shoreline where degradation has occurred through private exclusive use.

1-02. Authority. Authority for administering this policy is granted under Public Laws 86-717 and 87-874 which charge the Chief of Engineers with the exercise of good conservation practices which promote recreation and with the operation and maintenance of water resource projects in the public interest.

1-03. References.

- a. Section 4, 1944 Flood Control Act, as amended, PL 87-874.
- b. The Act of 31 August 1951 (31 USC 483a).
- c. The National Environmental Policy Act of 1969, PL 91-190.
- d. The Federal Water Pollution Control Act of 1972 (FWPCA).
- e. Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers".
- f. Executive Order 11752.
- g. 33 CFR 209.120. "Permits for Work in Navigable Waters or Ocean Waters".
- h. ER 1130-2-406, Shoreline Management at Civil Works Projects, 31 December 1990.

1-04. Private Exclusive Use. Facilities or land to be managed under the guidance of this Appendix include all applicable facilities placed by private citizens on the shoreline and water areas, and areas where vegetative modification (mowing/brushhogging) will be permitted in accordance with paragraph 5-06g. Private floating facilities will be permitted in areas except as follows:

a. In existing or designated public recreation areas; however, facilities proximate thereto may be permitted when the structure does not detract from the intended use of that area.

b. In areas which have aesthetic values worthy of preserving.

c. Areas designated for fish and wildlife.

d. In hazardous areas near the dam and related facilities.

e. Areas designated as Protected Shoreline.

f. Public Organizations (Quasi-Public) areas.

1-05. History. Fall River Lake was authorized by the Flood Control Act of 1941. Construction was started in 1946 and completed in 1949. The project was authorized to provide flood control and low-flow regulation in the Verdigris River Basin. In addition to flood control storage, the conservation storage totals 23,900 acre-feet of which 8,200 acre-feet is in permanent storage for sedimentation reserve, and the remaining 15,700 is used for releases of water during dry periods for supplemental water supply. The private facilities located on Fall River were permitted under provisions implied by the 1948 Master Plan and followed the policy established early in the District organization. Under this policy, no new private boat docks will be permitted on Fall River Lake and those that are currently on the lake are considered to be "grandfathered" in accordance with paragraph 5-03 of this plan.

II - OBJECTIVES OF THE PLAN

2-01. General. The policy of the Chief of Engineers is to manage and protect the shoreline and the available resources by making as much of the shoreline as possible available to the general public for unrestricted use, while at the same time honoring our past written commitments and not endangering the safety and health of all users.

2-02. Commercial Concessions. Maximum effort will be put forth to attract concessionaires and to establish suitable, well-maintained businesses that will offer desirable water-related services to the general public. Presently, demand for such facilities is non-existent.

2-03. Private Exclusive Use. There are no shoreline areas suitable for mooring private facilities on the lake. There are currently 27 structures that were permitted in public use areas under previous policy as discussed in paragraph 1-05. These structures will be allowed to remain under the provisions of the Grandfather Rights Clause (see paragraph 5-03).

2-04. Public Involvement. The Lakeshore Management Plan was presented at a public meeting held in El Dorado, Kansas, on 5 June 1975. Comments were received at the meeting and for 30 days following. Few adverse comments on the findings or the plan proposal were received. As public use trends change and necessitate revision of this policy, maximum public participation in the formulation thereof shall be encouraged to insure that future policy changes are beneficial to the majority of the using public. In 1991, the Lakeshore Management Plan, currently referred to as the Shoreline Management Plan was reviewed. No changes were proposed for the updated plan. The Shoreline Management Plan was again reviewed in 1996. No changes to the plan were made except for changing the number of permitted structures from 28 to 27.

III - DESCRIPTION OF SHORELINE

3-01. Description. The total shoreline length at normal conservation pool is 40 miles. The lake is situated in a drainage basin formed by the junction of the east and west branches of the Fall River. The shoreline is basically rolling prairie country with general elevations of about 930 feet at the dam site. Native tree growth surrounding the lake consists of a variety of oaks, sycamore, walnut, hickory, elm, willow, honey locust, pecan, wild cherry, maple, mulberry, hackberry, sumac, and ash. The vegetative cover is a mixture of tall and mid-grasses. Big bluestem is dominant on the lower slopes. Other predominant, naturally occurring range plants include bitter sneeze weed, broomsedge, bluestem, Canadian thistle, Indian grass, Johnson grass, Leavenworth eryngo and others. The surface soil is silt loam to silty clay and is friable when moist.

3-02. Present Land Use. The total fee-owned lands are 15,147 acres of which 140 acres are used for project operations; 490 acres are Corps administered public use areas; 1,017 acres for public use areas administered by other agencies; 8,662 acres are for fish and wildlife management; and 1,818 acres are for agricultural grazing leases.

3-03. Existing Access. In addition to pedestrian access, 6 launching ramps and 20 severed roads provide access to the lake.

3-04. Private Development. Development around Fall River Lake has been minor due to limited access to the lake. Presently, there are 3 areas of development located on the north side of the lake, near the project office. These areas are Sunflower Hills Cottage Sites, Vaughn's Acres, and Rock Ridge Cove.

IV - SHORELINE ALLOCATION

4-01. General. Based on the criteria given in Section I of the Appendix, the shoreline is allocated into use classifications.

4-02. Allocations.

a. Public Recreation Areas. These areas are developed or designated as public recreational sites for Federal, state, or similar public use and for commercial concessionaire facilities. Privately owned floating facilities will not be permitted in these areas. Modification of land form or vegetation by private individuals or groups will not be permitted.

b. Protected Shoreline Areas. Protected shoreline areas are designated primarily to protect or restore aesthetic, fish and wildlife, cultural, or other environmental values in accordance with the policies of the National Environmental Policy Act of 1969 (PL-190). Shorelines may also be designated in this category for physical protection reasons, such as heavy siltation, rapid dewatering, erosion, or exposure to high wind, wave, and current action. Land access and boating are permitted along these shorelines, provided aesthetic, environmental and natural resource values are not damaged or destroyed, but private floating recreation facilities may not be moored in these areas. Modification of land form or vegetation by private individuals will be permitted only after due consideration of the effects of such action on the environmental and physical characteristics of the area.

c. Prohibited Access Areas. These shoreline areas are allocated for security reasons, the protection of ecosystems, and the physical safety of the recreation visitors; for example, unique fish spawning beds, certain hazardous locations, areas located near dams or spillways, and recreation areas. Mooring of private floating facilities and/or the modification of land form and vegetation are not permitted.

V - IMPLEMENTATION

5-01. General. A thorough survey was conducted to determine the shoreline areas of the lake that are suitable for the mooring of private facilities in accordance with ER 1130-2-406. In investigating areas which might be suitable for floating facilities, the shoreline was sounded for depth and measured to determine the number of structures that could be accommodated. Adjacent terrain was inspected to determine accessibility. The survey concluded that there are no areas suitable for private exclusive use facilities on the shoreline. A Grandfather Rights Clause was implemented to protect the structures that are now on the lake. These facilities are protected under this clause until permanent removal of the facilities.

5-02. All Docks Under Permit. Identification tags for permitted structures will be given to each permittee. The tags are to be displayed where they can be checked visually with ease. One is to be placed on the lake side of the structure and one on the shore side. The tags will be fabricated on 3M sign material, will be 5" by 8", and will be printed as shown in Exhibit II. Permits will be issued for 5 years. A charge of \$30, which includes a \$5 administrative fee and a \$5 per year inspection fee, will be collected at the time the permit is issued.

5-03. Grandfather Rights Clause. A Grandfather Rights Clause applies to every privately owned facility presently on the lake.

a. Privately Owned Structures. These structures may remain in their present location provided the following criteria are followed:

(1) The facility must be maintained in a usable and safe condition.

(2) The facility does not pose a threat to life or property.

(3) The holder of the permit is in substantial compliance with the existing conditions of the permit.

b. New Permits. New permits for these facilities will be issued to new owners. If the holder of the permit fails to comply with the terms of the permit, it may be revoked and the holder may be required to remove the structure in accordance with the terms of the permit and paragraph 6-02.

c. Metal/Wooden Sides On Existing Docks. Docks that are enclosed with metal or wooden sides may be repaired or rehabilitated for any reason as long as the structure is in floating, usable condition. Boat docks that have deteriorated to the point of sinking or have been destroyed by floods, storms, fires, etc., must conform to the open-sided structure requirements if they are rebuilt or reconstructed. Any additional slips added to the enclosed docks will also conform to the no sides requirements.

d. New Docks. New docks will not be permitted on Fall River Lake.

5-04. Other Facilities and/or Activities that may be Permitted. The following facilities and/or activities may be permitted:

a. Ski Jumps. Temporary revocable permits will be issued for ski jumps upon approval the plans from the requesting club, group, or agency. Permits will not be issued for ski jumps proposed by an individual for private exclusive use. Permits will be issued for a maximum of 180 days.

b. Swimming Platforms. Temporary revocable permits will be issued for floating swimming platforms upon approval of the plans. These floats will be subject to the same shoreline allocations as other private floating facilities. Permits will be issued for a maximum of 180 days.

c. Mooring Buoys. Placement of mooring buoys will be subject to the same shoreline allocations as other private floating facilities.

d. Pedestrian Access Paths. Paths not to exceed 3 feet in width may be constructed to the shoreline with permission of the project manager. The path must follow a meandering route to prevent erosion and avoid the need for removal of trees and vegetation. The use permit does not convey the right to construct any structure (steps, bridges, etc.) in connection with the path.

e. Stairways, Tramways, and/or Steps. These structures may be permitted. Massive steel, concrete, or mortared brick structures will not be permitted. All steps and stairways must be structurally sound and safe with adequate handrails. If painted, all steps and stairways will be painted a color that is visually compatible with the natural background. White, yellow, orange, and other highly visible colors will not be allowed. A

license will be issued by the District Real Estate Office in accordance with paragraph 8-03 for such structures, provided the application and plans are approved.

f. Erosion Control Devices. These devices will be permitted where bank erosion is causing a problem or endangering adjacent private facilities. The erosion control structure may be constructed of riprap, wood, placed concrete, or masonry. Restoration of lost soil to return an area to original contours may also be permitted. This does not include the construction of earth dikes or ponds. These types of structures must not be for the purpose of landscaping or beautifying the area with little erosion control value. A permit will be issued by the project manager for such structures, provided detailed plans showing elevations and proposed work are approved by the project manager. In some cases, a Department of the Army Permit (Section 10/404) may also be required. The applicability of the Section 10/404 permit requirements will be determined during the review of the application. No administrative fee will be charged for erosion control permits.

g. Mowing/Brushhogging. Mowing, trimming, and vegetative modification will be allowed only in areas recommended by the project manager, approved by the District Engineer, and marked by appropriate marker placed in the ground. No herbicides may be used for control of vegetation.

h. Tree Trimming. Trees may be trimmed no more than 1/3 of the total tree height not to exceed 8 feet from the base of the tree. Trimming must be done during the dormant season. No herbicides may be used for control of vegetation. No living trees, brush, or shrubs with a base diameter of 1-inch or larger, 6 inches above the ground, will be cut. Cutting or removal of trees will be allowed only after approval of the application and issuance of a permit. Trees to be cut may be marked by the project manager in advance. Dead trees of any size may be removed after approval by the project manager. The sale of any tree that is cut is prohibited. The defacing of vegetation, rocks, or other natural material by painting, whitewashing, coloring, or otherwise changing the natural appearance is prohibited.

i. Duck Blinds. Duck blinds will be allowed on the lake during duck hunting season. Temporary revocable permits will be issued after approval of plans for duck blinds. No permanent duck blinds will be allowed on the lake and all temporary blinds will be removed from the lake within 5 calendar days after the

close of the duck hunting season. Temporary duck blinds may be fastened to dead trees; however, in no case will attachments to live trees be allowed. After approval and issuance of a permit, duck blinds may be placed on the lake not to exceed 30 days prior to the opening of duck season. The installation of items conducive to human habitation will not be allowed.

j. Submittal of Plans. The owners of all structures and/or facilities must submit plans and specifications for approval by the District Engineer or his authorized representative.

k. Applications. Applications for all proposed structures and activities listed in paragraph 5-06 must be made through the lake manager prior to any work or structure being placed on Government lands or waters.

5-05. Prohibited Facilities and Activities. The following facilities or activities are prohibited:

a. Any type of fixed pier or platform either on the land or extending into the water from the shoreline.

b. Any type of piling or post driven into the lake bottom for the purpose of mooring or tying boats.

c. Any type of sewage or outfall structure.

d. Any type of channel, ditch, canal, or excavation, unless the excavation is in conjunction with an approved erosion control structure or other approved facility.

e. Gardens and any type of lawn/landscape plantings.

f. Burning of any materials by private individuals on any Government-owned lands managed by the Corps of Engineers.

g. Any type of land form modification, construction, or other activity that changes the original or present condition of the land. This includes but is not limited to beach construction, channel construction, bank terracing, cuts and fills, or road and trail construction. Erosion control structures as described in paragraph 5-06f and those activities covered under a real estate instrument are exempt.

h. Accumulation of garbage, trash, refuse, litter, or other similar material.

i. Storage of boats, travel trailers, wood piles, or placement of other private items on public land is strictly prohibited. These items are subject to removal and impoundment by Corps of Engineers personnel.

j. Any type of fence or similar structure.

k. Privately owned buoys or waterway markers are prohibited; however, the Corps of Engineers will place navigational aids and safety buoys in the lake.

5-06. Application for Permits. Application for permits will be in accordance with the requirement of Section VII.

SECTION VI - REMOVAL OF STRUCTURES

6-01. Removal Of Permitted Facilities. At such time that the permittee ceases to operate or maintain the permitted facility, upon expiration, if not renewable, or upon revocation of the permit, the permittee shall remove the facility within 30 days at his expense and restore the waterway and lands to their former condition. If the permittee fails to remove and restore to the satisfaction of the District Engineer, the District Engineer may do so by contract or otherwise and recover the cost thereof from the permittee. By 30 days written notice, mailed to the permittee by registered or certified letter, the District Engineer may revoke this permit whenever he determines that the public interest necessitates such revocation or when he determines that the permittee has failed to comply with the conditions of the permit. The revocation notice shall specify the reason or such action. If, within the 30-day period, the permittee in writing requests a hearing, the District Engineer shall grant such hearing at the earliest opportunity. In no event shall the hearing date exceed 60 days from the date of the hearing request. At the conclusion of such hearing, the District Engineer shall render a final decision in writing and mail such decision to the permittee by registered or certified letter. The permittee may appeal such decision to the Division Engineer within 5 days of the receipt of the decision. The decision of the Division Engineer shall be rendered as expeditiously as possible and shall be sent to the permittee by registered or certified letter. The permittee may appeal such decision in writing to the Chief of Engineers with 5 days of receipt of the decision. The decision of the Chief of Engineers shall be final.

6-02. Removal Of Non-Permitted Facilities.

a. Abandonment of Personal Property. Facilities will be considered abandoned after a diligent effort has been made to locate the rightful owner, his/her heirs, next of kin, or legal representative in accordance with Section 327.15, Chapter III, Title 36, Code of Federal Regulations.

b. Unauthorized Structures. The construction or placement of any structure under, upon, or over the project lands or water is prohibited unless a permit therefore has been issued. This paragraph is subject to Section 327.20, Part 327, Chapter III, Title 36, Code of Federal Regulations. All structures not in accordance with this regulation will be removed.

VII - APPLICATION FOR PERMITS FOR ALL
FACILITIES AND/OR ACTIVITIES

7-01. Application for Shoreline Use Permit.

a. Floating Facilities. Applicants will submit two sets of plans and specifications for approval of the facility to include: engineering details; structural design; electrical wiring; anchorage method; construction material; the type, size, location; owner's address and telephone number; the expected duration of use of the facility; and a statement of willingness to abide by the rules and regulations and conditions of the permit.

b. Mowing/Brushhogging. Applications for vegetative modification should include the extent of modification, type of vegetation to be modified, and purpose of the work.

c. Other Facilities and Activities. Applicants for facilities, such as ski jumps or erosion control structures, will also furnish the same type plans and specifications as required for existing floating facilities.

The permit for any type facility or activity will be issued in the name of the husband and/or wife who owns the facility and will not be transferrable. The permits are revocable whenever the District Engineer determines that the public interest requires such revocation or that the permittee has failed to comply with the conditions of the permit or with the conditions in this plan. (See Exhibit I for General Requirements for Floating Structures.)

7-02. Electric Facilities to Docks.

a. Electric Service. When docks change ownership, or when electrical service is added to an existing docks, electrical plans and specifications which meet the National Electric Code must be submitted by a licensed electrician along with the plans for the boat dock. All electric lines on government property must be buried except where the terrain will not allow. In these cases, the electric lines must be encased in conduit that is approved by the National Electric code. All new electric lines will require a separate real estate instrument for the service right-of-way. On existing docks, no easements will be required until the dock is sold, transferred to another party, or repairs to or replacement of electrical facilities is required.

b. Real Estate Easements. Information needed by Real Estate Division to process the easement is as follows:

- (1) The length of the proposed easement.
- (2) A legal description which provides range, section, and township for the proposed easement.
- (3) Maps showing the location of the dock as it relates to the cove it is in, and a line indicating the electric line. (One map should be a segment map to show the range, section, and township, and the other map should be a hunting map or lake brochure to show location.)
- (4) An approved archaeological review.
- (5) A statement from a licensed electrician that the wiring meets the National Electrical Code.

Real Estate Division will determine the charge for the electric line easement and will bill the individual for the payment.

VIII - PERMITS

8-01. Shoreline Use Permits. Permits will be issued for any floating structures permanently moored on the lake and for vegetative modification activities which do not involve any disruption to or change in land form.

8-02. Department of the Army Permits. Permits under Section 404 of the Clean Water Act will be required for activities involving the discharge of dredged or fill material in the waters of the lake below the ordinary high water mark. In addition, a permit under Section 10 of the Rivers and Harbors Act of 1899 is required for structures or work that affects the course, location, or condition of the water body. This includes, but is not limited to, waterlines, powerlines, boat ramps, jetties, and other structures not covered under Title 36 CFR. Shoreline Use Permits, paragraph 8-01 above, will not be used in these circumstances.

8-03. Real Estate Instruments. All commercial development activities and all activities by individuals which are not covered above and which involve grades, cuts, fills, other changes in land form, or appropriate land-based support facilities required for private recreation facilities, will be covered by a lease, license, or legal grant issued by Real Estate Division.

8-04. Permit Administrative Charges.

a. An annual administrative fee of \$10 will be charged for the following:

- (1) Ski jumps.
- (2) Mooring floats for recreation or other uses.
- (3) Discharge of dredged or fill material (\$100 or fills exceeding 2500 c.y.).
- (4) Duck Blinds (any type).

b. An administrative fee of \$30 for a 5-year permit will be charged for the following:

- (1) Land Use-mowing, vegetative modification, clearing.
- (2) Boat mooring buoy.
- (3) Boat Docks.

IX - OTHER LAND AND WATER USES

9-01. Sewage and Solid Waste Disposal.

a. Project Lands. Sewage disposal from vault-type toilets located at Corps operated areas is carried out by private contractors who deposit the sewage into state-approved municipal sewage treatment plants. In areas operated by the State of Kansas, sewage is disposed of by a means of septic tank and filter systems that discharge into total retention lagoons. All solid wastes from project lands are disposed of in state-approved county landfills off project lands.

b. Adjoining Lands. Rigorous standards are established and enforced by the State of Kansas for the sanitary disposal of sewage and solid waste. This helps to minimize health hazards produced on lands adjacent to the project lands.

9-02. Marine Sanitary Facilities. There are no marine sanitary facilities on Fall River Lake. Discharging raw sewage from boats or boat docks is prohibited.

9-03. Potential Pollution Sources. Potential pollution sources around the project include faulty septic tanks, subsurface disposal systems, private cabins, concessions, boats, improperly operated sanitary landfills, open dumps, water treatment plants, open burning, odors, noise, and wash and grease racks which drain into small retention ponds. To date, none of the above listed potential pollution sources have had a significant adverse effect at the project. A routine surveillance and reporting program is carried out by project personnel for any potential problems which might arise.

X - CONCLUSIONS AND RECOMMENDATIONS

10-01. Conclusion. This revised plan provides a means of establishing and maintaining protection of desirable environmental characteristics of the lake and for the restoration of the shoreline where degradation has occurred through private and public use.

10-02. Review. This plan shall be reviewed every 5 years as a minimum, or at any time that changes in public use trend necessitates a review. Any revision hereto will be made in accordance with ER 1130-2-406 and will become a part of the plan following approval by the Southwestern Division Office.

10-03. Recommendation. Approval of the plan as submitted is recommended.

EXHIBIT I

GENERAL REQUIREMENTS FOR FLOATING STRUCTURES

EXHIBIT II

PERMIT

EXHIBIT III

EXCERPT OF TITLE 36 CFR PART 327.30
SHORELINE MANAGEMENT AT CIVIL WORKS PROJECTS

EXHIBIT IV

AREA ALLOCATIONS

FALL RIVER LAKE, KANSAS
AREA ALLOCATIONS

	<u>Shoreline Miles</u>	<u>Percent</u>	<u>Private Floating Facilities</u>
Public Use Areas	8.2	20.0	28
Public Organizations	0	0.0	0
Limited Development Areas	0	0.0	0
Aesthetic Areas	0	0.0	0
Protected Shoreline	30.3	76.0	0
Prohibited Access Areas	1.5	4.0	0
	<hr/>	<hr/>	<hr/>
TOTALS	40.0	100.0	28
Game Management Shoreline	25.0	62.5	

EXHIBIT V

GRANDFATHER RIGHTS-EXISTING BOAT DOCKS

GRANDFATHER RIGHTS-EXISTING BOAT DOCKS

<u>No.</u>	<u>Permit Number</u>	<u>Permittee</u>
1.	FR0001	Betty McCutcheon
2.	FR0002	Boyd Powell
3.	FR0003	James A. Bullins
4.	FR0004	R.J. Whitson
5.	FR0005	Mary Belcher
		Michael Gransberry
6.	FR0006	F.N. Booher
7.	FR0007	H.D. Cooper
8.	FR0008	Ward H. Johnson
9.	FR0009	Charles Gumm
10.	FR0010	Removed from lake
11.	FR0011	Removed from lake
12.	FR0012	Removed from lake
13.	FR0013	W.D. Seaton
14.	FR0014	John Stevenson
15.	FR0015	Ernie Holder
16.	FR0016	Mrs. Carol Dunlap
17.	FR0017	Roberta George
18.	FR0018	Removed from lake
19.	FR0019	Larry DeBrot
20.	FR0020	Sharon L. Coppenbarger
21.	FR0021	Richard LaMunyon
22.	FR0022	Roberta (Ruse)Blackburn
23.	FR0023	Kelso Deer
24.	FR0024	Brian McNeil
25.	FR0025	Mike McNeil
26.	FR0026	Fred Schuster
27.	FR0027	Harold Spurgeon
28.	FR0028	Lawrence Bishop
29.	FR0029	Clarence Orth
30.	FR0030	Milton Lacy
31.	FR0031	Bill Zawko
32.	FR0032	Removed from lake
33.	FR0033	Donald Fairbanks.

EXHIBIT VI
SHORELINE MANAGEMENT PLAN MAP